



**UPDATED:** February 20, 2020  
City Department of Planning and Permitting  
**Ordinance on Short-Term Rentals**

Bill 89 CD2 was adopted by the City Council on June 17, 2019 and signed into law as Ordinance 19-18 by Mayor Kirk Caldwell on June 25, 2019. Ordinance 19-18:

- Allows a limited number of new Bed and Breakfast Homes (B&Bs) in non-resort areas under a new registration process, with annual renewal required.
- Continues to prohibit Transient Vacation Units, or “unhosted” short term rentals, in non-resort areas, unless permitted by a Nonconforming Use Certificate (NUC).
- Makes it illegal to advertise short-term rentals that do not comply with the zoning regulations provided in Ordinance 19-18.

A copy of Ordinance 19-18 can be obtained here: <https://bit.ly/2IS637x>

Since the enactment of Ordinance 19-18, DPP has received many questions about how DPP will enforce this new law. The following are frequently asked Questions and the Answers DPP has provided to interested persons

#### **COURTESY LETTERS**

**I received a letter in the mail, stating that I may be the owner of an illegal vacation rental. But I don't rent my home out on a short-term basis. How did you get that information and what can I do to correct this?**

Prior to the effective date of Ordinance 19-18, DPP collected online data that identified potential short-term rentals. DPP sent warning letters to inform property owners of the requirements of Ordinance 19-18 on July 23, 2019. These letters are not citations but are meant to disseminate information to the public.

Due to the nature of the information that DPP used to identify potential short-term rentals, some warning letters were misdirected to properties that are located in the vicinity of suspected short-term rentals.

If you believe a letter was sent to you in error, please contact the DPP at 768-8127 or 768-8159, and be prepared to provide the address and TMK listed on your letter. If you know of a short-term rental in your area, we will also appreciate you providing us with the address and TMK of the short-term rental.

Portions of Ordinance 19-18 are currently in effect. Therefore, DPP is not currently issuing warning letters to people violating Honolulu's short-term rental laws. When DPP confirms a violation of Ordinance 19-18, it will issue a Notice of Violation for the offense.

## **ADVERTISING**

**I own an unhosted, "whole house," short-term rental or Transient Vacation Unit. I pay taxes. Can I continue to advertise online and in the local newspaper?**

Paying TAT and GET taxes on short-term rental transactions does not excuse noncompliance with local zoning laws. Properties can only be advertised for unhosted, less than thirty day rentals if the short-term rental is permitted by a nonconforming use certificate. In addition, all advertisements for permitted, unhosted short-term rentals, must include the nonconforming use certificate number for the advertised property.

**When did the department start enforcing the new advertising restrictions?**

The effective date for enforcement began August 1, 2019.

**What are the fines for illegal advertising?**

The minimum fine for an illegal advertisement is \$1,000.00 and the maximum fine is \$10,000.00. Fines are assessed against a violation on a daily basis and can accumulate to large sums if the advertisement is not promptly removed. To avoid the imposition of fines after an illegal advertisement is removed, violators should contact DPP immediately upon removal of the offending advertisement to confirm that the violation has been addressed to DPP's satisfaction. For more information, refer to Ordinance 19-18: <https://bit.ly/2IS637x>

**How do I distinguish my legal long-term rental advertisement from an illegal short-term rental?**

Advertisements that contain a clearly stated minimum rental period of 30 days or more will not be cited for violating Ordinance 19-18. However, advertisements that include a mechanism for prorating a 30 day rental price based on less than 30 days of occupancy will be scrutinized by DPP and may be found to violate Ordinance 19-18.

**I only rent my property for 30 days or longer, but when I advertise on a certain platform, the monthly rate is automatically broken down into daily rates. These rates become part of my ad and I have no ability to change that. Will I be liable, even though I don't rent by the day?**

Displaying daily rates is not specifically prohibited by Ordinance 19-18. If your advertisement clearly states that your minimum rental period is 30 days, it is unlikely that DPP will find your advertisement to be in violation of Ordinance 19-18. However, DPP will scrutinize all advertisements for statements that offer to prorate the price of a 30 day rental based on the days of occupancy and may determine that an advertisement violates Ordinance 19-18 because it amounts to an offer to rent property for less than 30 days.

**If the management company for my property places an illegal ad, will the company get cited?**

DPP can and will cite management companies that are responsible for publishing illegal advertisements. However, property owners will generally be held responsible for advertisements concerning their property. Therefore, property owners that are affected by management companies that are acting without their knowledge and consent should take timely action to remove illegal advertisements from circulation and contact DPP to discuss their circumstances before a Notice of Order is issued.

## **REGISTRATION OF NEW BED AND BREAKFAST HOMES**

**I have been operating a Bed and Breakfast Home for several years. Do I still have to obtain a registration number?**

Yes, unless you already have a NUC.

**I only rent out my house for 30 days or more at a time. Do I need to register?**

No.

**I only rent my house while my family spends 2 weeks each year visiting family on the mainland. Do I need to register?**

Yes.

**When can I register?**

Registration will begin on October 1, 2020. For more information on the registration process, please visit our website at [www.honolulu.gov/dppstr](http://www.honolulu.gov/dppstr)

### **Why do we have to wait until October 1, 2020 to register?**

The time is required for the Department to develop more specific procedures for implementing Ordinance 19-18, including the adoption of rules and creating the software to help with enforcement and the registration process. If necessary, it provides time to acquire more staff and to train them. For applicants, it may take time for them to fulfill some of the filing requirements, such as obtaining their AOA approval, if applicable.

### **What are the registration requirements?**

There are more than a dozen requirements. Most notable:

- Applicants must be “natural persons,” and not an organization or company
- Applicants must have a home exemption granted under real property tax law
- There must be insurance coverage for bed and breakfast use
- The initial registration fee is \$1,000. For annual renewals, the fee is \$2,000
- No more than 2 bedrooms can be used for visitor accommodations
- Quiet hours must be observed between 10 p.m. and 8 a.m.
- If part of a homeowner’s or apartment owner’s association, approval by that association must be obtained
- Neighbors within 250 feet must be given a phone number to contact to make complaints, 24 hours a day

For the complete list of requirements, refer to Ordinance 19-18: <https://bit.ly/2IS637x>

### **I heard that the NUC program will be discontinued and we will no longer be able to renew a NUC. Is that true?**

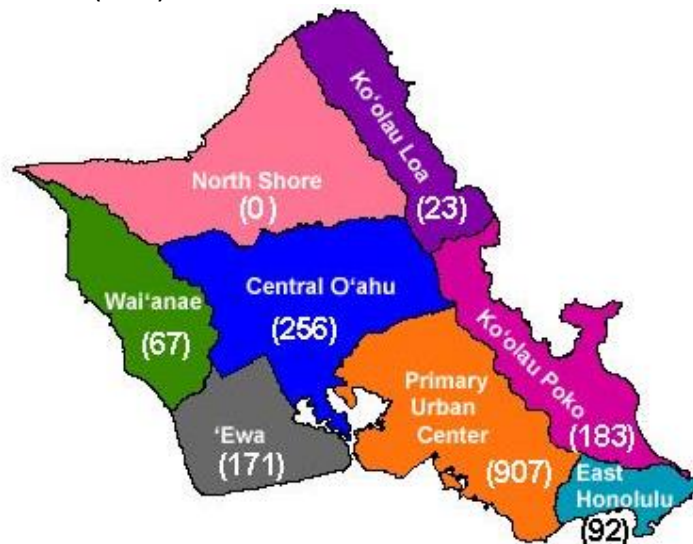
No, the NUC program will continue as usual, meaning they have to be renewed every even-numbered year. Ordinance 19-18 only requires those with NUCs to include the NUC number in advertisements beginning August 1, 2019.

### **Where can I find a list of NUCs?**

For a complete list, please click on this link: <http://www.honolulu.gov/dppstr/approved-strs.html>

### Are there other requirements?

Density Limit. No more than 0.5% of the total number of dwelling units in each regional development plan area (DPA) can be used as B&Bs. Here are the limits by area:



New B&Bs are not allowed in the North Shore area, based on directives of the North Shore Sustainable Communities Plan: <http://bit.ly/2Y4QpLg>

Condominium Limit. Up to 50% of units in a condominium building may be allowed a B&B, subject to AOA approval.

Separation Minimum. B&Bs must be at least 1,000 feet from each other. This does not apply to units in resort areas and NUCs. At this time, DPP does not view the 1,000 foot separation requirement as applicable to dwelling units located within the same condominium building.

Nontransferable. Registration numbers are not transferable to another property or person.

Renewal Criteria. Noise and other nuisance complaints can be grounds to deny the renewal of a B&B registration.

For the complete list of requirements, refer to Ordinance 19-18: <https://bit.ly/2IS637x>

### If only a limited number of registration numbers will be given out, how can I guarantee to get one?

You are not able to reserve or guaranteed a B&B registration. However, you can improve your chances of obtaining a registration by submitting a complete application soon after DPP begins accepting registration applications.

**How will it be determined who gets a registration number?**

Generally on first-come, first-served basis. If the number of requests exceeds the limit for a DPA, then a lottery will be held.

**How will the lottery system work?**

This will be fleshed out in the Rules. There will be a public hearing on the draft Rules before they are finalized.

**I am currently operating a B&B, and do not have a NUC, so will need to register. Will I get priority in the registration process?**

No.

**Can I advertise and operate a short-term rental once I file my registration?**

No. To avoid a citation, operation cannot occur until the registration process has been completed and registration number issued.

**I'm registered to pay the transient accommodations tax (TAT) and general excise tax. I'm also required to list my TAT number in my advertisements, which I do. Doesn't that allow me to legally operate a short-term vacation rental on Oahu?**

No. The state Department of Taxation requires all transient accommodations operators to pay TAT and GET, and also to include the registration ID number in ads. These requirements are separate from the county's vacation rental ordinances. Registering with the state does not mean you are legally operating under county ordinances.

**I have bookings through the rest of the year. What should I do?**

If you are legally operating, you can go about your business as usual. If you are illegally renting, the decision is yours as to whether to continue the illegal use. But beginning August 1, 2019 we are vigorously enforcing Ordinance 19-18.

**I live in an area where I belong to a homeowner's association and the zoning allows short-term rentals. The association's rules, however, state that we are not allowed to rent out short-term rentals. Can the city override their rules and grant me a permit?**

No, city zoning does not override private homeowner association rules or deed restrictions.

**What if the zoning doesn't permit short-term rentals, but my homeowners' association allows it. Who has the authority?**

County ordinances will apply. Association rules and deed provisions do not overrule zoning.

**I am a member of homeexchange.com, where owners "swap" the use of their homes with other owners around the world. No money is exchanged and terms of the use can range from a few days to several weeks. Does this activity fall under the new short-term rental law?**

Home exchanges are subject to the new regulations. While home exchanges may not involve cash transactions, owners are compensated for such exchanges with things like "guest points" or a home/lodging. The definition of transient vacation unit contains a broad definition of compensation, i.e., "... compensation includes, but is not limited to, monetary payment, services or labor of transient occupants." The definition was intended to prevent people from renting a dwelling or lodging unit for less than 30 days, regardless of how the owner is compensated.

SECTION 14 OF THE ORDINANCE READS IN PART: "Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of transient occupants."

**This new law is going to kill the vacation rental industry and cause financial hardship for many who rely on the extra income to survive in Hawaii. Who can I call to express my concerns or ask for changes to the law?**

You can call your City Councilmember:

Council District 1: Kymberly Marcos Pine, 768-5001  
Council District 2: Heidi Tsuneyoshi, 768-5002  
Council District 3: Ikaika Anderson, 768-5003  
Council District 4: Tommy Waters, 768-5004  
Council District 5: Ann Kobayashi, 768-5005  
Council District 6: Carol Fukunaga, 768-5006  
Council District 7: Joey Manahan, 768-5007  
Council District 8: Brandon Elefante, 768-5008  
Council District 9: Ron Menor, 768-5009

### **MORE INFORMATION**

- Refer to the Department's website: [honoluludpp.org](http://honoluludpp.org)
- Follow the Department's Twitter account: [@hnl\\_dpp](https://twitter.com/hnl_dpp)
- Email the Department: [info@honoluludpp.org](mailto:info@honoluludpp.org)
- Call the Department:
  - General Zoning Information: 768-8252
  - Advertising Restrictions: 768-8127
  - Registration Process: 768-8127
  - Make a complaint: 768-8127
  - Public Information Officer: 768-8284
- Visit the Short Term Rental website: [honolulu.gov/dppstr](http://honolulu.gov/dppstr)
  - General Information about Short-Term Rentals
  - File complaints online